

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 841

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

**RELATING TO WATER; AMENDING THE WATER PROJECT FINANCE ACT TO
EXPAND THE SCOPE OF PERMITTED PROJECTS TO INCLUDE WATER
CONSERVATION MEASURES; ALLOWING INDIAN NATIONS, TRIBES AND
PUEBLOS TO RECEIVE DIRECT FINANCIAL ASSISTANCE FROM THE WATER
TRUST BOARD; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 72-4A-2 NMSA 1978 (being Laws 2001,
Chapter 164, Section 2) is amended to read:**

"72-4A-2. FINDINGS AND PURPOSE. - -

A. The legislature finds that:

**(1) New Mexico is in a desert where water is a
scarce resource;**

**(2) the economy depends on reasonable and fair
allocation of water for all purposes;**

. 145658. 1

underscored material = new
[bracketed material] = del ete

underscored material = new
[bracketed material] = del ete

1 (3) the public welfare depends on efficient
2 use and conservation of water;

3 (4) New Mexico must comply with its delivery
4 obligations under interstate compacts; and

5 (5) public confidence and support for water
6 use efficiency and conservation is based on a reasonable
7 balance of investments in water infrastructure and management.

8 B. The purpose of the Water Project Finance Act is
9 to provide for water use efficiency, resource conservation and
10 protection and fair distribution and allocation of ~~[the]~~ New
11 Mexico's scarce [resource to all users] water resources for
12 beneficial purposes of use within the state."

13 Section 2. Section 72-4A-3 NMSA 1978 (being Laws 2001,
14 Chapter 164, Section 3) is amended to read:

15 "72-4A-3. DEFINITIONS.--As used in the Water Project
16 Finance Act:

17 A. "authority" means the New Mexico finance
18 authority;

19 B. "board" means the water trust board;

20 C. "political subdivision" means a municipality,
21 county, irrigation district, conservancy district, special
22 district, acequia ~~[or]~~, soil and water conservation district,
23 [and] water and sanitation district or an association organized
24 and existing pursuant to the Sanitary Projects Act;

25 D. "qualifying water project" means a project

underscored material = new
[bracketed material] = delete

1 recommended by the board for funding by the legislature; and

2 E. "qualifying entity" means a political
3 subdivision of the state or a recognized Indian nation, tribe
4 or pueblo, the boundaries of which are located wholly or
5 partially in New Mexico."

6 Section 3. Section 72-4A-5 NMSA 1978 (being Laws 2001,
7 Chapter 164, Section 5) is amended to read:

8 "72-4A-5. BOARD--DUTIES.--The board shall:

9 A. adopt rules governing terms and conditions of
10 grants or loans recommended by the board for appropriation by
11 the legislature from the water project fund, giving priority to
12 projects [~~that have urgent needs, that have been~~] identified
13 [~~for implementation of~~] as being urgent to meet the needs of a
14 regional water planning area that has had a completed regional
15 water plan [~~that is~~] accepted by the interstate stream
16 commission and that have matching contributions from federal or
17 local funding sources available, and that has obtained all
18 requisite state and federal permits and authorizations
19 necessary to initiate the project; and

20 B. authorize qualifying water projects to the
21 authority that are for:

22 (1) storage, conveyance or delivery of water
23 to end users;

24 (2) implementation of federal Endangered
25 Species Act of 1973 collaborative programs;

. 145658. 1

underscored material = new
[bracketed material] = del ete

- 1 (3) restoration and management of watersheds;
- 2 [~~or~~]
- 3 (4) flood prevention; or
- 4 (5) conservation, recycling, treatment or
- 5 reuse of water as provided by law. "

6 Section 4. Section 72-4A-6 NMSA 1978 (being Laws 2001,
7 Chapter 164, Section 6) is amended to read:

- 8 "72-4A-6. AUTHORITY--DUTIES.--The authority shall:
- 9 A. provide staff support for the board;
 - 10 B. develop application procedures and forms for
 - 11 ~~[political subdivisions]~~ qualifying entities to apply for
 - 12 grants and loans from the water project fund; and
 - 13 C. make loans or grants authorized by the
 - 14 legislature to ~~[political subdivisions]~~ qualifying entities for
 - 15 qualifying water projects ~~[authorized by the legislature]~~,
 - 16 provided that the service area for the project is wholly within
 - 17 the boundaries of the state. "

18 Section 5. Section 72-4A-7 NMSA 1978 (being Laws 2001,
19 Chapter 164, Section 7) is amended to read:

- 20 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--
- 21 A. Grants and loans shall be made only to state
 - 22 agencies or to political subdivisions that:
 - 23 (1) agree to operate and maintain the water
 - 24 project so that it will function properly over the structural
 - 25 and material design life, which shall not be less than twenty

underscored material = new
[bracketed material] = delete

1 years;

2 (2) require the contractor of the construction
3 project to post a performance and payment bond in accordance
4 with the requirements of Section 13-4-18 NMSA 1978;

5 (3) provide written assurance signed by an
6 attorney or provide a title insurance policy that the political
7 subdivision has proper title, easements and rights of way to
8 the property upon or through which the water project proposed
9 for funding is to be constructed or extended;

10 (4) meet the requirements of the financial
11 capability set by the board to ensure sufficient revenues to
12 operate and maintain the water project for its useful life and
13 to repay the loan;

14 (5) agree to properly maintain financial
15 records and to conduct an audit of the project's financial
16 records; and

17 (6) agree to pay costs of originating grants
18 and loans as determined by rules adopted by the board.

19 B. Plans and specifications for a water project
20 shall be approved by the authority, after review and upon the
21 recommendation of the state engineer and department of
22 environment, before grant or loan disbursements to pay for
23 construction costs are made to a state agency or political
24 subdivision.

25 C. Grants and loans shall be made only for eligible

. 145658. 1

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

items, which include:

- (1) to match federal and local cost shares;
- (2) engineering feasibility reports;
- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archaeological surveys;
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees. "

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.